



(BILLING CODE: 4810-02P)

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Comment Request of the Proposed Changes to the Report of Foreign Bank and Financial Accounts Report

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN, a bureau of the U.S. Department of the Treasury, invites all interested parties to comment on its proposed update to Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (“FBAR”). This request for comments is made pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Written comments should be received on or before [INSERT DATE 60-DAYS AFTER THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: Direct all written comments to: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, U.S. Department of the Treasury, P.O. Box 39, Vienna, VA 22183, Attention: PRA Comments—Update to the FBAR report. Comments also may be submitted by electronic mail to the following Internet address: “regcomments@fincen.gov” with the caption in the body of the text, “Attention: PRA Comments-- Update to the FBAR report.”

Inspection of Comments: Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments

submitted must request an appointment with the Disclosure Officer by telephoning (703) 905-5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: Financial Crimes Enforcement Network, Regulatory Policy and Programs Division at (800) 949-2732. A copy of Form TD F 90-22.1 reflecting the proposed changes may be found at the end of this notice.

SUPPLEMENTARY INFORMATION:

Abstract: The statute generally referred to as the “Bank Secrecy Act” (“BSA”), Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311–5314 and 5316–5332, authorizes the Secretary of the Treasury, inter alia, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹ Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

The information collected on Form TD F 90-22.1 (as well as other BSA reporting and recordkeeping requirements that are not the subject of this notice) assist Federal, state, and local law enforcement in the identification, investigation, and prosecution of individuals involved in money laundering, the financing of terrorism, tax evasion,

¹ Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the “USA PATRIOT Act”), P.L. 107-56.

narcotics trafficking, organized crime, fraud, embezzlement, and other crimes. The information also assists in tax collection, examination, and other regulatory matters.²

Current Action: FinCEN is proposing to update the current TD F 90-22.1 report to standardize it with other BSA electronically filed reports and add the capability for a third party preparer to file the report should the owner of the foreign account wish to employ this option. To standardize the FBAR with other BSA reports, FinCEN proposes to add an item to record taxpayer identification number (“TIN”) Type to Part I, item 3a; Part I, item 4; Part III, item 25a; Part IV, item 35a; and V, item 35a. The addition of a check box to indicate that the amount is unknown is added to Parts II, III, IV, and V in item 15a. FinCEN also proposes to add a new item “Suffix” to Part I, item 8a; Part III, item 28a; and Part IV, item 37a. This update includes a revised signature section. It adds item 44a, a check box with the instruction “*Check here [box for checking] if this report is completed by a 3rd party preparer and complete item 46 and the third party preparer section.*”³ A new section, “*3rd Party Preparer Use Only,*” is added to the report to support this method of filing. The 3rd Party Preparer section consists of the preparer’s last name, first name, and middle initial (items 47, 48, and 49); preparer’s signature (item 50); a check box to indicate if the preparer is self-employed (item 51); the preparer’s TIN and TIN Type (items 52 and 52a); and a contact telephone number and extension, if applicable, (items 53 and 53a). If the preparer is an employee of a firm, the firm’s name and employer identification number (“EIN”) are entered in items 54 and 55. Finally, the

² The information collection addressed in this notice is currently approved under Office of Management and Budget (“OMB”) Control Number 1506-0009.

³ The date in item 46 will be entered automatically if the FBAR is filed through the BSA E-Filing Discrete (single report) Option. If the FBAR is batch filed, the date must be manually entered in the batch filing specifications’ 2a Record.

address (street number, city, state, ZIP/Postal Code, and country) of the preparer (if self-employed) or the firm is entered in items 56 through 60.⁴

Title: Reports of foreign financial accounts (31 CFR 1010.350).

OMB Control Number: 1506-0009 (The IRS's OMB control number is 1545-2038).

Current Action: There is no change to the existing regulations.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals, businesses or for-profit institutions, and non-profit institutions.

Estimate Number of Affected Filing Individuals and Entities: 780,000.⁵

Estimated Recordkeeping and Reporting Burden: Based on past filings, 30 minutes for recordkeeping and 45 minutes for report completion for a total filing burden of 1 hour and fifteen minutes (1:15).

Estimated Annual Recordkeeping and Reporting Burden Hours: 975,000.⁶

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but it may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will

⁴ If a third party preparer completes and files the report, the report will be signed in item 50. If the report is completed and filed by the owner of the foreign account, the report will be signed in the signature section, item 44.

⁵ This figure reflects the actual number of FBAR filings in calendar year 2012.

⁶ 780,000 reports X 1.25 hours per report = 975,000 hours.

become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: __February 26, 2013__

Jennifer Shasky Calvery
Director
Financial Crimes Enforcement Network

REPORT OF FOREIGN BANK
AND FINANCIAL ACCOUNTS

Do NOT file with your Federal Tax Return

OMB No. 1545-2038
1 This Report is for Calendar
Year Ended 12/31

Amended ☐

Part I Filer Information

2 Type of Filer a <input type="checkbox"/> Individual b <input type="checkbox"/> Partnership c <input type="checkbox"/> Corporation d <input type="checkbox"/> Consolidated e <input type="checkbox"/> Fiduciary or Other - Enter type _____			
3 U.S. Taxpayer Identification Number If filer has no U.S. Identification Number complete Item 4.	3a TIN type <input type="checkbox"/> SSN/TIN <input type="checkbox"/> EIN	4 Foreign identification (Complete only if item 3 is not applicable.) a Type: <input type="checkbox"/> Passport <input type="checkbox"/> Foreign TIN <input type="checkbox"/> Other _____ b Number _____ c Country of Issue _____	5 Individual's Date of Birth MM/DD/YYYY
6 Last Name or Organization Name		7 First Name	8 Middle Initial 8a Suffix
9 Address (Number, Street, and Apt. or Suite No.)			
10 City	11 State	12 Zip/Postal Code	13 Country
14 Does the filer have a financial interest in 25 or more financial accounts? <input type="checkbox"/> Yes If "Yes" enter total number of accounts _____ (If "Yes" is checked, do not complete Part II or Part III, but retain records of this information) <input type="checkbox"/> No			

Part II Information on Financial Account(s) Owned Separately

15 Maximum value of account during calendar year reported	15a Amount Unknown <input type="checkbox"/>	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below	
17 Name of Financial Institution in which account is held			
18 Account number or other designation	19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held		
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country
Signature 44a Check here <input type="checkbox"/> if this report is completed by a 3rd party preparer and complete item 46 and the 3rd party preparer section.			
44 Filer Signature	45 Filer Title, if not reporting a personal account		46 Date (MM/DD/YYYY)
3rd Party Preparer Use Only	47 Preparer's last name	48 First name	49 MI
	50 Preparer's signature	51 Check <input type="checkbox"/> if self-employed	
	52 TIN type <input type="checkbox"/> PTIN <input type="checkbox"/> SSN/TIN <input type="checkbox"/> Foreign	53 Contact phone no.	53a Ext.
	54 Firm's name	55 Firm's EIN	
56 Address (Number, Street, Suite Number)		57 City	58 State
		59 Zip/Postal Code	60 Country

This form should be used to report a financial interest in, signature authority, or other authority over one or more financial accounts in foreign countries, as required by the Department of the Treasury Regulations 31 CFR 1010.350. No report is required if the aggregate value of the accounts did not exceed \$10,000. See Instructions For Definitions.

PRIVACY ACT AND PAPERWORK REDUCTION ACT NOTICE

Pursuant to the requirements of Public Law 93-579 (Privacy Act of 1974), notice is hereby given that the authority to collect information on TD F90-22.1 in accordance with 5 USC 552a (e) is Public Law 91-508; 31 USC 5314; 5 USC 301; 31 CFR 1010.350. The principal purpose for collecting the information is to assure maintenance of reports where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The information collected may be provided to those officers and employees of any constituent unit of the Department of the Treasury who have a need for the records in the performance of their duties. The records may be referred to any other department or agency of the United States upon the request of the head of such department or agency for use in a criminal, tax, or regulatory investigation or proceeding. The information collected may also be provided to appropriate state, local, and foreign law enforcement and regulatory personnel in the performance of their official duties. Disclosure of this information is mandatory. Civil and criminal penalties, including in certain circumstances a fine of not more than \$500,000 and imprisonment of not more than five years, are provided for failure to file a report, supply information, and for filing a false or fraudulent report. Disclosure of the Social Security number is mandatory. The authority to collect is 31 CFR 1010.350. The Social Security number will be used as a means to identify the individual who files the report. The estimated average burden associated with this collection of information is 75 minutes per respondent or record keeper, depending on individual circumstances. Comments regarding the accuracy of this burden estimate, and suggestions for reducing the burden should be directed to the Internal Revenue Service, Bank Secrecy Act Policy, 5000 Ellin Road C-3-242, Lanham MD 20706

Part III Information on Financial Account(s) Owned Jointly					Form TD F 90-22.1 Page Number
Complete a Separate Block for Each Account Owned Jointly					<u>2</u> of <u>4</u>
Add additional Part III page as many times as necessary in order to provide information on all accounts					
1 Filing for calendar year ____	3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:		6 Last Name or Organization Name		
15 Maximum value of account during calendar year reported	15a Amount Unknown <input type="checkbox"/>	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24 Number of joint owners for this account	25 Taxpayer Identification Number (TIN) of principal joint owner, if known. See instructions			25a TIN Type <input type="checkbox"/> EIN <input type="checkbox"/> SSN/ITIN <input type="checkbox"/> Foreign	
26 Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle Initial, if known	28a Suffix
29 Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30 City, if known		31 State, if known	32 ZIP/Postal Code, if known	33 Country, if known	
15 Maximum value of account during calendar year reported	15a Amount Unknown <input type="checkbox"/>	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City	21 State, if known	22 Zip/Postal Code, if known	23 Country		
24 Number of joint owners for this account	25 Taxpayer Identification Number of principal joint owner, if known. See instructions			25a TIN Type <input type="checkbox"/> EIN <input type="checkbox"/> SSN/ITIN <input type="checkbox"/> Foreign	
26 Last Name or Organization Name of principal joint owner		27 First Name of principal joint owner, if known		28 Middle Initial, if known	28a Suffix
29 Address (Number, Street, Suite or Apartment) of principal joint owner, if known					
30 City, if known		31 State, if known	32 ZIP/Postal Code, if known	33 Country, if known	

Part IV		Information on Financial Account(s) Where Filer has Signature or Other Authority but No Financial Interest in the Account(s)		Form TD F 90-22.1 Page Number	
Complete a Separate Block for Each Account				<u>3</u> of <u>4</u>	
Add additional Part IV page as many times as necessary in order to provide information on all accounts					
1 Filing for calendar year — — — —		3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:		6 Last Name or Organization Name	
15 Maximum value of account during calendar year reported		15a Amount Unknown <input type="checkbox"/>		16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below	
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City		21 State, if known		22 Zip/Postal Code, if known	
				23 Country	
34 Last Name or Organization Name of Account Owner				35 Tax Identification Number of Account Owner	
				35a TIN Type <input type="checkbox"/> EIN <input type="checkbox"/> SSN/ITIN <input type="checkbox"/> Foreign	
36 First Name		37 Middle Initial		38 Address (Number, Street, and Apt. or Suite No.)	
39 City		40 State		41 ZIP/Postal Code	
				42 Country	
43 Filer's Title with this Owner					
15 Maximum value of account during calendar year reported		15a Amount Unknown <input type="checkbox"/>		16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below	
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City		21 State, if known		22 Zip/Postal Code, if known	
				23 Country	
34 Last Name or Organization Name of Account Owner				35 Tax Identification Number of Account Owner	
				35a TIN Type <input type="checkbox"/> EIN <input type="checkbox"/> SSN/ITIN <input type="checkbox"/> Foreign	
36 First Name		37 Middle Initial		38 Address (Number, Street, and Apt. or Suite No.)	
39 City		40 State		41 ZIP/Postal Code	
				42 Country	
43 Filer's Title with this Owner					

Part V		Information on Financial Account(s) Where Filer is Filing a Consolidated Report			Form TD F 90-22.1 Page Number <u>4</u> of <u>4</u>	
Complete a Separate Block for Each Account Add additional Part V page as many times as necessary in order to provide information on all accounts						
1 Filing for calendar year ____ - ____ - ____		3-4 Check appropriate Identification Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Foreign Identification Number Enter identification number here:		6 Last Name or Organization Name		
15 Maximum value of account during calendar year reported		15a Amount Unknown <input type="checkbox"/>	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held						
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held				
20 City		21 State, if known	22 Zip/Postal Code, if known		23 Country	
34 Corporate Name of Account Owner			35 Tax Identification Number of Account Owner		35a TIN Type <input type="checkbox"/> EIN <input type="checkbox"/> SSN/ITIN <input type="checkbox"/> Foreign	
38 Address (Number, Street, and Apt. or Suite No.)						
39 City		40 State	41 ZIP/Postal Code		42 Country	
15 Maximum value of account during calendar year reported		15a Amount Unknown <input type="checkbox"/>	16 Type of account a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held						
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held				
20 City		21 State, if known	22 Zip/Postal Code, if known		23 Country	
34 Corporate Name of Account Owner			35 Tax Identification Number of Account Owner		35a TIN Type <input type="checkbox"/> EIN <input type="checkbox"/> SSN/ITIN <input type="checkbox"/> Foreign	
38 Address (Number, Street, and Apt. or Suite No.)						
39 City		40 State	41 ZIP/Postal Code		42 Country	

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